

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GENTRY CARL LABUFF,

Defendant.

CR 10-23-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on October 17, 2016. Defendant admitted that he had violated the conditions of his supervised release by submitting a urine sample that tested positive for methamphetamine, and by failing to reside in a residential reentry center. Judge Johnston found the admissions sufficient to establish the supervised release violations. He recommended that this Court revoke Defendant's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of imprisonment of four months, with 24 months of supervised release to follow. Judge Johnston further recommended that the conditions of supervised release should include a condition requiring the Defendant to complete treatment at Connections Corrections in Butte, Montana. No objections

were filed by either party. Judge Johnston's findings and recommendations are therefore reviewed for clear error. *McDonnell Douglas Corp. Commodore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston's findings. Defendant admitted he had violated the conditions of his supervised release. Defendant could be incarcerated for up to 24 months, followed by 28 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of four to ten months. A sentence of four months in custody, followed by 24 months of supervised release is appropriate. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 158) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 16th day of November, 2016.



Brian Morris
United States District Court Judge